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SUBJECT: NO EASY WAY OUT FOR MANY ASYLUM SEEKERS IN TURKEY

REF: 08 ANKARKA 1270

¶1. Summary: In meetings with asylum seekers and Istanbul-based refugee officials, we confirmed the GOT does not recognize "political migrants" from non-European countries as "refugees" under the Geneva Convention on Refugee Status. Rather, it assigns them temporary "asylum seeker" status, denying them the option of permanent integration into Turkey. While non-European migrants typically arrive in Turkey intending to continue on (legally or illegally) to other countries, Turkey's requirements for obtaining and maintaining legal asylum seeker status can delay migrants indefinitely in Turkey, encouraging illegal passage instead. End Summary.

GOT's Political Migrant Policy

¶2. UNHCR representative Eduardo Yrezebel told us, pursuant to a 1951 General Assembly decision, a UN Conference of Plenipotentiaries drafted a convention regulating the legal status of refugees, defined in the Convention as persons seeking to emigrate from their home countries for fear of persecution based on race, religion, nationality, political opinion or social group membership. The resulting 1951 Geneva Convention on Refugee Status, as well as its 1967 Protocol, charges its signatories to protect refugees and mandates UNCHR with the task of supervising the Convention and other international conventions providing for the protection of refugees, Yrezebel explained. While UNHCR makes its own determination as to an applicant's entitlement to refugee status, and may file complaints with the European Court of Human Rights (ECHR) for violations of the Convention, signatories have the final say as to whether they will accept an applicant as a refugee.

¶3. According to International Catholic Migration Commission (ICMC) officers Bora Ozbek and Damir Thaqi, the ICMC is the State Department's overseas processing entity handling cases in Turkey and the Middle East and South Asia regions after UNCHR makes its refugee status determination (RSD). Signatories to the Convention can agree to one of three options for the processing of UNHCR-recognized refugees: resettlement to resettlement countries; integration into the local population; or voluntary repatriation. Ozbek and Thaqi explained that when signing the Convention in 1951, Turkey acceded to an optional geographic limitation provided for in Article 1B.

¶4. Yrezebel told us Turkish and UNHCR refugee processing personnel utilize three terms to describe persons potentially covered by the Convention. "Political migrant" describes any individual present in Turkey (legally or illegally) seeking

protection under the Convention. If UNHCR determines the individual is entitled to protection, the person is a "refugee," whatever the home country might be. The GOT, by contrast, reserves the term "refugee" for political migrants from European countries who are legally present in Turkey and thus entitled to resettlement in Turkey. GOT refers to qualifying non-European political migrants as "asylum seekers."

15. If asylum status is not granted, the migrant is detained until deported, Ozbek said. If asylum status is granted, GOT allows the migrant to remain in Turkey (seemingly indefinitely, although Turkish law is unclear) until what Ozbek terms a "durable solution" is found -- resettlement to a third country or voluntary repatriation. Since few countries will resettle Asian and African asylum seekers located in Turkey, they must remain in Turkey for an extended time, with few options available. The "Turkish National Action Plan for Adoption of the EU Acquis in the Field of Asylum and Migration" foresees local integration once the geographical limitation to the 1951 Convention is lifted, Ozbek said, noting the GOT intends to lift the limitation by 2012 in order to receive assistance from the European Commission for asylum seeker assistance projects. Until then, a great incentive to pass illegally through Turkey to the West remains. Tragedies like boating mishaps off the Turkish coast and the July 30 suffocation deaths of 13 migrants transiting Turkey result from the prohibitive process for attaining and maintaining legal status in Turkey, Ozbek stated.

16. The 1951 Convention and Turkey's 1994 Asylum Regulation

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include a non-refoulement agreement for European refugees and non-European asylum seekers (REF) to prevent the deportation of migrants to their country of origin -- or other countries -- prior to the completion of UNHCR's refugee status determination (RSD) procedure, Yrezebal told us. Nonetheless, UNHCR had 21 cases of refoulement from Turkey in 2007, including the refoulement of one Iraqi and seventeen Iranian asylum-seekers to Iraq, and two Iranians and one Afghan to their countries of origin. In two separate cases he notes that UNHCR filed complaints with the ECHR because the GOT prevented Iranian refugees from leaving Turkey for third countries where they had been accepted for resettlement. The Ministry of Interior granted exit visas on learning complaints had been filed. Ozbek contends that refoulement now occurs rarely and is "less systematic" than when he first began working with the issue in 2000.

----- UNHCR Judgments Ignored and Access Limited -----

17. Ozbek explained that the Department of Foreigners, Borders, and Asylum of the Ministry of Interior's General Directorate for Security registers asylum-seekers. In the past, the Department typically relied on RSD made by UNHCR to determine Turkish asylum seeker status. However, both Yrezebal and Ozbek report that since 2007 the Department has started to adjudicate cases with less reference to the UNHCR adjudication, and sometimes in a manner contrary to the UNHCR determination in cases where the applicants are considered a threat to the GOT.

18. In addition to interviewing and registering political migrants after they have been accepted into the Turkish asylum process, Yrezebal explained that UNHCR also attempts to monitor applicants' initial access to the asylum process at land borders or airports, to liaise with the Ministry of Interior, and to provide limited social service and monetary assistance to political migrants. UNCHR reports that authorities hinder UNHCR efforts to monitor the asylum process by denying UNHCR access to asylum applicants who appear at legal entry points.

Obstacles Faced By Asylum Seekers

¶9. Ozbek and Thaqi noted that asylum seekers must first register with the Foreigners' Police upon arrival, but often mistakenly go to UNHCR first, where they are then directed back to the police and then to the Department. The Department assigns all asylum seekers to one of 30 "satellite cities" scattered across Anatolia (no asylum seekers are assigned to Istanbul or Ankara). An asylum seeker wishing to depart Turkey (either to resettle or to repatriate) must remain in the assigned satellite city, report weekly or sometimes daily (depending on the city-specific police strictures) to the Foreigner's Police, and pay a semiannual resident permit fee of \$296, according to Yrezebal. Internal Department confusion often results in a much higher fee, however, and interlocutors at the Interior Ministry reportedly do not know the actual rate. The fee is beyond the means of many, since they are not permitted to work; asylum seekers who do not pay the fee are denied exit permits when they try to leave Turkey for their resettlement destinations. The fee can be waived for "humanitarian reasons" under Turkish law; however, in practice the waiver cannot be applied because the Ministry of Finance's computer system does not include this option. Yrezebal related that without valid permits, asylum seekers also cannot obtain access to State social services, medical services, or schools, and risk being detained as illegal migrants if they are caught.

¶10. Because the government provides no housing and does not issue work permits to asylum seekers, Ozbek and Thaqi stressed they often move away from their assigned locations -- usually to Istanbul -- in search of work. Although employed foreigners with a six month residence permit can apply through their employer to the Ministry of Labor for a work permit, Yrezebal, Ozbek, and Thaqi are not aware of many refugees who have managed to do so. Ozbek and Thaqi described situations in which families of five were required to pay more than \$15,000 to depart because they had illegally moved from their satellite city to Istanbul in search of work several years before a durable solution was found. Over the

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last three years, the waiting time for Iraqis has shortened significantly to less than a year, Ozbek noted. Seeing "a clear light at the end of the tunnel," Ozbek said fewer Iraqi families are leaving their satellite cities.

¶11. Foreigners who claim asylum only after being detained by the security forces when trying to leave Turkey are housed in a "Foreigners' Guesthouse," Yrezebal commented. Guesthouses are in fact detention facilities with cement walls and floors. Yrezebal related complaints pertaining to shortage of food, medical attention, and crowded conditions. He explained that the Ministry of Interior does not always release a Guesthouse detainee, even when recognized by UNHCR as a refugee, and the Ministry does not always grant UNHCR access to asylum seekers.

Sri Lankan Migrants at Christ Church Hostel

¶12. We also met with three of six Sri Lankan asylum seekers between the ages of 20 and 35 living in Christ Church Hostel (CCH), the former crypt of Christ Anglican Church in Istanbul. Rector Ian Sherwood estimates over 1000 migrants of various non-European nationalities have come through CCH since he arrived in 1991. They do not pay rent but contribute to the Church's upkeep. An additional three Sri Lankan families with children share apartments in the vicinity of the church while they wait for their UNHCR and GOT marching orders, which in one case has taken over six

years. The Sri Lankans complain that the police have threatened them with detention and ill treatment and are not at all sensitive to their plight.

¶13. Two of the Sri Lankans we met with are 23-year-old cousins who grew up in a family of Christian Tamil seamen. In 2007, both decided to emigrate (illegally) to Italy via Turkey because they had heard that Turkey was one of the easiest entry points into the European Union. After obtaining Turkish visas in Malaysia (supposedly, an easier process than using the Turkish embassy in Sri Lanka), they arrived in Turkey in November 2007, declaring themselves asylum seekers, registering with UNHCR, and moving to their assigned satellite city of Gaziantep. After nine days in Gaziantep, they moved to Istanbul to find work and seek free housing at the hostel. UNHCR has scheduled interviews for them in Ankara on November 28, but they do not plan to remain in Turkey much longer, having learned that the (illegal) migrant boat ride to Italy is both dangerous and expensive (over \$5000 per person). While they plan to return to Sri Lanka soon, they fear they will be unable to pay the expensive exit fee incurred for living outside of their satellite city.

¶14. We also spoke with a 20-year old Hindu Tamil living in CCH for over two years after arriving from Bangkok, another easy location for obtaining a visa. He told us he had a UNHCR interview scheduled for July 1 in Ankara, but was informed only days beforehand that UNHCR had no Tamil interpreter available and that his interview would be postponed to an undetermined date. "All I can do is wait and waste my life without a job here in Turkey," he lamented

¶15. Comment: While Turkey's concern that offering greater benefits to asylum seekers will increase the flow of migrants into an already taxed economy is understandable, the requirements for remaining in and departing Turkey legally appear counterproductive. Easing those requirements to meet EU standards could make legal departure a reasonable option for impoverished political migrants. End Comment.
WIENER